

Department of Health and Human Services

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payment(s) is due, the date the Government's right to collect the debt first accrued, and that the creditor agency's regulations implementing 5 U.S.C. 5514 have been approved by the Office of Personnel Management.

(2) If the collection is to be made in installments, the creditor agency must also advise the Department of the number of installments to be collected, the amount or percentage of disposable pay to be collected in each installment, and the commencement date of the installments, if a date other than the next officially established pay period is required.

(3) Unless the employee has consented in writing to the salary deductions or signed a statement acknowledging receipt of the required procedures and the written consent or statement is forwarded to the Department, the creditor agency must advise the Department of the action(s) taken under 5 U.S.C. § 5514, and give the date(s) the action(s) was taken.

(b) *Requests for recovery.* (1) Complete claim. When the Department receives a properly certified debt claim from a creditor agency, deductions should be scheduled to begin prospectively at the next officially established pay interval. The employee must receive written notice as described in § 33.10 that the Department has received a certified debt claim from the creditor agency, including the amount, and written notice of the date deductions from salary will commence and the amount of such deductions.

(2) *Incomplete claim.* When the Department receives an incomplete debt claim from a creditor agency, the Secretary shall return the debt claim with a notice that procedures under 5 U.S.C. 5514 and 5 CFR part 550, subpart K, must be provided and a properly certified debt claim received before action will be taken to collect from the employee's current pay account.

(c) *Review.* The Secretary is not required or authorized to review the merits of the determination with respect to the amount or validity of the debt certified by the creditor agency.

(d) *Employees separating.* If an employee begins separation action before the Department collects the total debt

due the creditor agency, the following actions will be taken:

(1) To the extent possible, the balance owed the creditor agency will be liquidated from a final salary check, or other final payments of any nature due the employee from the Department;

(2) The Secretary will certify the total amount of the Department's collection on the debt and send a copy of the certification to the employee and another copy to the creditor agency; and

(3) If the Department's collection does not fully satisfy the debt, and the Secretary is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments that may be due the employee from other Federal Government sources, the Secretary will provide written notification of the outstanding debt to the agency responsible for making such payments to the employee. The written notification shall state that the employee owes a debt, the amount of the debt, and that the provisions of this section have been fully complied with. The Department shall furnish a copy of this written notification to the creditor agency so that it can file a properly certified debt claim with the agency responsible for making such payments.

(e) *Employees who transfer to another paying agency.* If, after the creditor agency has submitted a debt claim to the Department, the employee transfers from the Department to a different paying agency before the debt is collected in full, the Secretary shall:

(1) Certify the total amount of the collection made on the debt; and

(2) Furnish a copy of the certification to the employee and another copy to the creditor agency along with notice of the employee's transfer.

§ 33.13 Interest, penalties, and administrative costs.

Debts owed to the Department shall be assessed interest, penalties and administrative costs in accordance with 45 CFR 30.18.

§ 33.14 Non-waiver of rights.

An employee's involuntary payment of all or any portion of a debt collected under this part shall not be construed

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as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of law or contract, unless there are statutory or contractual provisions to the contrary.

§ 33.15 Refunds.

(a) The Secretary shall promptly refund any amounts paid or deducted under this part when:

(1) A debt is waived or otherwise found not owing to the United States; or

(2) The employee's paying agency is directed by administrative or judicial order to refund amount deducted from the employee's current pay.

(b) Unless required or permitted by law or contract, refunds shall not bear interest.

§ 33.16 Additional administrative collection action.

Nothing contained in this part is intended to preclude the use of any other appropriate administrative remedy.

PART 34—CLAIMS FILED UNDER THE MILITARY PERSONNEL AND CIVILIAN EMPLOYEES ACT

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§ 34.1 Purpose and scope.

(a) *Purpose.* This part prescribes policies and procedures for handling claims not in excess of \$40,000.00 filed by employees against the Department of Health and Human Services under the Military Personnel and Civilian Employees Claims (MPCE) Act of 1964, 31 U.S.C. 3721, for damage to, or loss of, property against the Department. Under the MPCE Act, the Secretary may approve claims made against the Government by a federal government employee for damage to or loss of per-

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sonal property that is incident to employment when the loss or damage is not due to any negligence on the part of employee.

(b) *Scope.* This part applies to all Departmental Operating Divisions and Regional Offices that process and review claims under the MPCE Act. Nothing in this part shall be construed to bar other types of claims that are payable under other statutory authority such as, but not limited to, the Federal Tort Claims Act (28 U.S.C. 2671–2680).

§ 34.2 Definitions.

In this part, unless the context otherwise requires:

Claim means any claim filed by or on behalf of an employee for damage to, or loss of, property that is incident to the claimant's employment. This definition includes claims where the claimant is not the legal owner of the property in question, but has obtained authorization from the legal owner to possess or control the property.

Claimant means an employee who has filed a claim with the Department under the MPCE Act.

Damage or loss means total or partial destruction or loss of the item claimed.

Department means the Department of Health and Human Services.

Employee means an officer or employee of the Department.

Quarters means a house, apartment or other residence assigned by the government to an employee of the Department.

§ 34.3 Filing procedures and time limits.

(a) *Who may file a claim.* A claim may be filed by the following individuals:

(1) An employee;

(2) An authorized agent or representative of an employee or employee's estate, regardless of whether the claim arose before or concurrent with an employee's death; and

(3) A former employee or his authorized agent or representative if damage or loss occurred prior to the separation from the Department.

(b) *Requirements.* A claim submitted under this part must be presented in writing to the Claims Officer (*See* paragraph (c) of this section). Claims may